HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, April 08, 2021
87th Legislature, Number 30
The House convenes at 10 a.m.

Three bills are on the Major State Calendar and 14 bills are on the General State Calendar for second reading consideration today. The table of contents appears on the following page.

The following House committees were scheduled to meet today: Appropriations; State Affairs; Agriculture and Livestock; Elections; Higher Education; Juvenile Justice and Family Issues; Redistricting; Transportation; Judiciary and Civil Jurisprudence; Urban Affairs; County Affairs; Business and Industry; Homeland Security and Public Safety; and Ways and Means.

Alma Allen
Chairman
87(R) - 30

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, April 08, 2021
87th Legislature, Number 30

SUBJECT: Creating state broadband plan and program to fund expansion of services

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

1 absent — Smithee

WITNESSES: For — Kathy Green, AARP; Chance Sparks, American Planning Association Texas Chapter; John Mason, AT&T; Michael Ward and Shawntrae Hart, Austin Urban Technology Movement; Kevin Couch and JJ Mcgrath, Connect2educate; Bill Sproull, Richardson Chamber of Commerce; Luis Acuna, Texas 2036; Nora Belcher, Texas e-Health Alliance; Mike Williams, Texas Electric Cooperatives; Patrick Wade, Texas Grain Sorghum Association; Dan Finch, Texas Medical Association; Suzi Kennon, Texas PTA; Daniel Gibson, TSTCI; Randy Willis, Texas Rural Education Association, Texas Association of Community Schools, and TX Association of School Administrators; Ashley Harris, United Ways of Texas; Richard Lawson, Verizon; Michael Hunsucker, Windstream and Texas Telephone Association; (*Registered, but did not testify*: Priscilla Camacho, Alamo Colleges District; Robert Johnston, Anderson County; Kara Mayfieldi, Association of Rural Communities in Texas; Mark Wiggins, Association of Texas Professional Educators; Melissa Shannon, Bexar County Commissioners Court; Matt Matthews, Bexar County Education Coalition; Shayne Woodard, Big Bend Telephone Company and Brazoria Telephone Company; John T. Wright, Big Sandy Sand Company; Greg Jones, Cherokee County Electric Cooperative; Richard Lawson, Chevron; Eddie Solis, City of Arlington; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Justin Till, City of Marfa and Monahans Chamber of Commerce; Kelly Barnes, City of Nacogdoches; Christine Wright, City of San Antonio; Richard Dennis, Coastal Bend College; Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Daniel Collins, County of El Paso; Charles Reed,

Dallas County Commissioners Court; Ben Stratmann, Dallas Regional Chamber; Daniel Womack, Dow, Inc.; Nelson Nease, East Texas Electric Cooperative, Inc.; Craig Chick, Eastex Telephone Co-op; Beth Cubriel, Eric Rachel; Kate Kuhlmann, Fast Growth Schools Coalition; Richard Lawson, Frontier Communications; Traci Berry, Goodwill Central Texas; Lindsay Munoz, Greater Houston Partnership; Craig Chick, GVTC; Ender Reed, Harris County Commissioners Court; Kathi Calvert, Houston County Electric Cooperative; Stephen Scurlock, Independent Bankers Association of Texas; Mark Tamplin, Japer-Newton Electric Coop, Inc.; Cyrus Reed, Lone Star Chapter Sierra Club; Tom Oney, Lower Colorado River Authority; Myra Leo, Methodist Healthcare Ministries; John McCord, NFIB; Yvette Clay, North Texas Commission; Joel Romo, Nueces County; John Pitts, Project Lead the Way and Western Governors Association; Charles Gaines, Raise Your Hand Texas; Doug Turk, Sam Houston Electric Cooperative; Leticia Van de Putte, San Antonio Chamber of Commerce; Danielle Delgadillo, South Texas Electric Cooperative (STEC); Todd Morgan, T-Mobile; Russell Schaffner, Tarrant County; Maureen Milligan, Teaching Hospitals of Texas; Servando Esparza, TechNet; Josette Saxton, Texans Care for Children; Marshall Kenderdine, Texas Academy of Family Physicians; Jason Modglin, Texas Alliance of Energy Producers; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Grover Campbell, Texas Association of School Boards; Courtney Hoffman, Texas Association for Behavior Analysis Public Policy Group; Oscar Rodriguez, Texas Association of Broadcasters; J.D. Hale, Texas Association of Builders; Ray Sullivan, Texas Association of Business; Dustin Meador, Texas Association of Community Colleges; Barry Haenisch, Texas Association of Community Schools; Lori Henning, Texas Association of Goodwills; Katie Coleman, Texas Association of Manufacturers; Justin Yancy, Texas Business Leadership Council; Pamela McPeters, Texas Classroom Teachers Association; Jennifer Bergland, Texas Computer Education Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Charlie Leal, Texas Farm Bureau; Rob Hughes, Texas Forestry Association; John Hawkins, Texas Hospital Association; Monty Wynn, Texas Municipal League; Ryan Skrobarczyk, Texas Nursery and Landscape Association; Tray Bates, Daniel Gonzalez, and Julia Parenteau, Texas Realtors; Robert Scott, Texas Rural Broadband Coalition; Dee Carney, Texas School Alliance; Dale Craymer, Texas Taxpayers and

Research Association; Dana Chiodo, Texas Technology Consortium; John Hubbard, Ian Randolph, and Mark Seale, Texas Telephone Association; Lauren Banister, TexPIRG; Dana Harris, The Greater Austin Chamber of Commerce; Julie Wheeler, Travis County Commissioners Court; Ashley Harris, United Ways of Texas; Cliff Campbell, Wood County Electric Cooperative; Russell Parish; Thomas Parkinson; Thomas Ratliff)

Against — None

On — Jennifer Harris, Connected Nation Texas; Johnny Kampis, Taxpayers Protection Alliance; Walt Baum, Texas Cable Association; Wynn Rosser, Texas Rural Funders and TLL Temple Foundation; (*Registered, but did not testify*: Harrison Hiner, Communications Workers of America; Will Counihan, Comptroller of Public Accounts)

BACKGROUND:

Utilities Code sec. 56.021 establishes the universal service fund to assist telecommunication providers in providing basic local service at reasonable rates in high-cost areas, reimburse telecommunication carriers that provide statewide relay access service, and finance or reimburse other related services.

Government Code ch. 490H establishes the Governor's Broadband Development Council, composed of 17 voting members, and requires the council to research the progress of broadband development in unserved areas, identify barriers to deployment, study technology-neutral solutions, and analyze the benefits of statewide broadband access.

DIGEST:

CSHB 5 would establish the Broadband Development Office, which would be tasked with preparing a state broadband plan, creating a map of areas with limited access to broadband service, and awarding financial incentives in those eligible areas to expand access to and adoption of service.

Broadband Development Office. The Broadband Development Office would be established within the comptroller's office to:

- serve as a resource for information on broadband service in the state;

- engage in outreach to communities on the expansion, adoption, and affordability of broadband service and the office's programs; and
- serve as an information clearinghouse on federal broadband assistance programs.

The office would have powers necessary to carry out its duties, including the power to enter into contracts.

The comptroller could employ additional employees necessary to discharge the duties of the office. The bill would not grant the comptroller authority to regulate broadband services or service providers.

State broadband plan. The bill would require the Broadband Development Office to prepare, update, and publish on the comptroller's website a state broadband plan that established long-term goals for greater access to and adoption and affordability of broadband service in the state.

In developing the plan, the office would have to:

- collaborate with state agencies, political subdivisions, broadband industry stakeholders, and related community organizations;
- consider the policy recommendations of the Governor's Broadband Development Council;
- favor polices that were technology-neutral and protected all members of the public;
- explore state and regional approaches to broadband development; and
- examine certain broadband service needs related to public safety, public education, public health, and related agencies.

Broadband development map. CSHB 5 would require the Broadband Development Office to create, update annually, and publish on the comptroller's website a map classifying each designated area in the state as:

- an eligible area, if fewer than 80 percent of the addresses in the area had access to broadband service; or

- an ineligible area, if 80 percent or more had access to broadband service.

The comptroller by rule could determine the scope of a designated area.

The map would have to display the number of broadband service providers in each area, an indication of whether each area had access to internet service that was not broadband service, and each public school in the state and an indication of whether the school had access to broadband service.

The office would not have to create, update, or publish a map if the Federal Communications Commission (FCC) produced a map that enabled the office to identify eligible areas and met the above requirements.

Map information. The office would have to use information from the FCC to create the map and create, update, and publish the map in a manner consistent with the most recent FCC methodology. If information from the FCC was not available or sufficient, the office could request necessary information from a political subdivision or broadband service provider, but the office could not require an entity to report such information in different format than that required by FCC methodology.

Information reported by a broadband service provider to the office and information provided by the FCC, if not publicly available, would be confidential and not subject to public disclosure.

Contracting. The office could contract with a private consultant or other appropriate person who was not associated with a commercial broadband provider, including a local government entity, to provide technical or administrative assistance to create or update the map.

The office could release information reported from a broadband service provider or the FCC to a contractor. The contractor would have to keep the information confidential and return it to the office on the date the contract expired or was terminated or the date the mapping project was completed, whichever was earliest.

Reclassification of designated areas. The office would have to establish criteria for determining whether a designated area should be reclassified as an eligible or ineligible area. The criteria would have to include an evaluation of internet speed test data and information on end user addresses.

The bill would allow a broadband service provider or political subdivision to petition to reclassify an area. The office would have to provide notice of a petition to each broadband service provider in the area and post notice of the petition on the comptroller's website.

Within 45 days of receiving notice of a petition, a provider would have to provide information to the office showing whether the designated area should or should not be reclassified. Within 75 days, the office would have to determine whether to reclassify the area and update the map. The bill would specify that a determination made by the office would not be considered a contested case by state law.

Broadband development program. The bill would require the Broadband Development Office to establish a program to award grants, low-interest loans, and other financial incentives to applicants for the purpose of expanding access to and adoption of broadband service in eligible areas.

The office would have to establish and publish criteria for making awards and would have to take into consideration any financial incentives awarded by the federal government in an area and prioritize applications in areas with the lowest percentage of addresses with access to broadband service.

The bill would prohibit the office from:

- favoring a particular broadband technology in awarding financial incentives;
- awarding financial incentives to a provider that did not report requested information;

- awarding financial incentives to a noncommercial provider if a commercial provider had submitted an application for the area; or
- taking into consideration distributions from the state universal service fund when deciding to award financial incentives.

The office would have to post on the comptroller's website and update as necessary information about the application process and the receipt of awards. Each application would have to be available on the website for at least 30 days before the office made a decision on the application. During those 30 days, the office would have to accept from any interested party a written protest of the application.

The office would have to establish and publish criteria for award recipients, which would have to include requirements that the awards could be used only for capital expenses, purchase or lease of property, and other expenses that would facilitate the provision or adoption of broadband service, such as backhaul and transport.

An awarded granted by the office would not affect the eligibility of a telecommunications provider to receive support from the state universal service fund.

Broadband Development Account. The bill would establish the Broadband Development Account in the general revenue fund. The account would consist of legislative appropriations, gifts and grants, and interest on any invested money. The comptroller would have to deposit to the credit of the account federal money received by the state for the purpose of broadband development.

Money in the account could be appropriated only to the Broadband Development Office for the purposes of creating or updating the eligibility map, administering the broadband development program, creating or updating the state broadband plan, or engaging in outreach to communities regarding broadband service and the office's programs.

The account would be exempt from certain state laws governing the management of funds in the state treasury and the disposition of interest on investments in funds and accounts in the comptroller's charge.

Threshold speed for broadband service. For the purposes of this bill, "broadband service" would mean Internet service with the capability of providing a download speed of at least 25 megabits per second and an upload speed of at least three megabits per second.

If the FCC adopted upload or download speeds for advanced telecommunications capability that were different from those above, the comptroller by rule could require internet service to be capable of providing speeds that matched that federal threshold to qualify as broadband service.

If the comptroller adjusted the threshold, the broadband development office would have to publish the adjusted minimum download and upload speeds on the comptroller's website within 60 days.

Participation in FCC proceedings. The Broadband Development Office could monitor, participate in, and provide input in FCC proceedings related to the geographic availability and deployment of broadband service in this state to ensure that the information available to FCC reflected the current status of service and the state was best positioned to benefit from federal broadband programs.

The office could participate in a federal process allowing governmental entities to challenge the accuracy of the FCC's information on the geographic availability and deployment of broadband. The bill would require the office to establish procedures and a data collection process in accordance with FCC rules for the Digital Opportunity Data Collection to enable the office to participate in this process.

Governor's Broadband Development Council. CSHB 5 would expand the Governor's Broadband Development Council to include one nonvoting member appointed by the Broadband Development Office and one voting member appointed by the governor who was a representative from an electric cooperative providing broadband.

The bill also would expand the duties of the council to include researching the progress of deployment of broadband service statewide and purchase

of broadband by residential and commercial customers and studying industry and technology trends.

Dates. The Broadband Development Office would have to publish the eligibility map required by this bill by September 1, 2022.

By January 1, 2022, the office would have to publish a map created by the FCC that displayed the number of broadband service providers in each designated area or a link to such map. The office would have to use this map to determine whether an area was eligible under the broadband development program until the office published its eligibility map.

The office would have to prepare the initial state broadband plan by September 1, 2022.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 5 would help expand broadband service across Texas in a way that was technologically neutral and holistic. Currently, there is a large gap between those who have broadband access and those who do not, creating economic and social disparities for underserved areas. One recent report estimated that nearly 900,000 Texans were unserved, mostly from rural areas. The COVID-19 pandemic has further exacerbated the issue as public education, health care, and criminal justice services have been forced to move online.

CSHB 5 would help to bridge the gap by creating the Broadband Development Office, which would be tasked with implementing a state broadband plan and directing loans, grants, or other funds to certain underserved areas in the state for expanding access to and adoption of broadband. This would help the state draw down federal funds to allow providers to move into high-cost areas. The program would serve both rural areas affected by the lack of access to broadband infrastructure and urban areas with low adoption rates.

Broadband Development Office. The bill would create an office to oversee the expansion of broadband, conforming with recommendations from the Governor's Broadband Development Council. The office would

best be placed within the comptroller's office because it would be tasked with awarding funds to unserved areas. The financial expertise, statewide presence, stakeholder relationships, and transparency of the comptroller's office make it the most appropriate location for the Broadband Development Office.

State broadband plan. Texas is currently one of just six states that do not have a statewide broadband plan, making the state less competitive in receiving certain federal funds. By requiring the creation of a statewide plan, the bill would establish goals to guide the development of and investment in broadband infrastructure and ensure no federal funds were left on the table, including a potential influx of money from recent federal stimulus bills. This provision also conforms with recommendations from the Governor's Broadband Development Council.

In developing the plan, the Broadband Development Office would have to favor technology-neutral policies so as not to interfere in private competition. There are several ways to deliver broadband, such as through cable internet, fiber, or wireless services, that may be appropriate in different areas of the state depending on the geography. By not favoring any single technology, the bill would not pick winners and losers but would create a level playing field. Because the office would be technologically neutral, it also would be inclusive of any new innovations in technology, including satellite internet services.

The plan would also be holistic, as the office would have to collaborate with regional stakeholders and examine specific needs for public education, health, and criminal justice.

Broadband development program. The bill would establish a broadband expansion program, under which certain areas with less than 80 percent of broadband service could be eligible for funds. This program would help to build broadband infrastructure, addressing one of the biggest challenges to broadband access. The bill would require the Broadband Development Office to prioritize areas with the least service, ensuring dollars were not needlessly spent.

When awarding funds, the office could not favor a particular technology nor could it consider funding from the Universal Services Fund or award an noncommercial provider if a commercial provider had applied in the area. This provision would create a fair environment for awarding loans or grants that would encourage the expansion and adoption of services in a manner that was technology-neutral without tamping down private competition.

Concerns about overspending in areas served by broadband providers could be addressed with a floor amendment. If the Broadband Development Office upheld a protest on a program application on the grounds that addresses in an eligible area had access to broadband service, the amendment could allow the applicant to resubmit the application without those challenged addresses.

The bill should not be amended to allow, rather than require, broadband providers to respond to a protest to reclassify an area as eligible or ineligible under the broadband expansion program. This provision would ensure compliance so that funds were spent only where needed.

Broadband development map. The bill would require the Broadband Development Office to develop a map of areas throughout the state in which fewer than 80 percent of households could access broadband and that would be eligible for the broadband expansion program. The map would best identify where funds to build infrastructure should be sent. By creating its own eligibility map, Texas also has the opportunity to focus on even more granular data than that offered on a federal level. The bill would combine the preferred Federal Communications Commission (FCC) methodology on gathering data with the state's internal knowledge of its communities to best serve areas of need.

The map should not be expanded to include adoption rates, as it is important to keep uniformity with federal methodology so that the statewide map works correctly and interacts well with federal law. The office, in both the statewide plan and the broadband development program, would factor in the adoption rates and affordability of broadband in the state.

Concerns that the bill would create a state eligibility map that did not use FCC mapping data and methodologies are unfounded. The bill clearly states that the office would have to use information from the FCC to create the map in a manner consistent with the most recent FCC methodology.

Threshold speed for broadband service. The bill would adopt as the threshold speed for broadband service a download speed of at least 25 megabits per second and an upload speed of at least three megabits per second to conform with FCC speeds. It is important to maintain uniformity so that state maps and federal maps align and federal funds can be disbursed properly in the state. If the FCC did increase speed requirements, the bill would include a mechanism by which the comptroller by rule could increase the minimum speed for broadband services.

Governor's Broadband Development Council. The bill makes some changes to the council simply to include representation from the Broadband Development Office to prevent a duplication of efforts. The bill also would add a representative from an electric cooperative to conform to changes made last legislative session, since cooperatives may now provide more broadband services. Otherwise, expanding the council is not within the scope of this bill and should be considered in other legislation.

CRITICS SAY:

CSHB 5 should be amended to expand broadband in the state while ensuring appropriate oversight, protecting fair competition, and ensuring the best use of federal funds.

Broadband Development Office. The office created to expand broadband in the state should be overseen by a council including certain representatives from the telehealth medicine industry, public education, and rural and urban areas. This would ensure that regular, non-industry people had input in broadband expansion and would promote specific goals related to education and telehealth.

Broadband development map. Provisions of the bill on the state's eligibility map should be amended.

Adoption rates. The bill should include adoption rates of broadband services as part of the map, rather than only including access rates, to include more communities in the state program. This would ensure that the program served communities that did not lack access to broadband because of lack of infrastructure but because of a lack of adoption due to high cost or low digital literacy.

FCC methodology. The bill could create some issues regarding the development of the map of eligible areas under the state broadband expansion program. The Broadband Development Office should strictly adhere to the FCC map of unserved areas to ensure the data had been well vetted. If the state map diverged from the federal map, it could create customer confusion, imply a different definition of "unserved areas," and jeopardize federal funding.

Broadband development program. As written, the bill could lead to the Broadband Development Office sending funds to an area that had more service than the office was aware of. There should be a process by which broadband providers may protest the funds if they were serving households in the area, preventing overspending of taxpayer money.

The bill wrongly would require each broadband provider in an area to respond to a protest to reclassify an area as an eligible or ineligible area under the broadband expansion program. This provision should be permissive so as not to burden providers.

Threshold speed for broadband service. The bill should increase the minimum speeds for broadband service, as the current FCC standards may be inadequate for certain services such as remote learning and telehealth programs, especially if multiple users are connected. A 100 megabits per second download speed and 10 megabits per second upload speed would be a better threshold.

Governor's Broadband Development Council. The bill should expand the council to include other specialized members, such as representatives of urban communities, education institutions, or school districts, to be resources on the unique issues faced by those institutions.

OTHER CRITICS SAY:

CSHB 5 inappropriately would grow the size of government and cost taxpayers. Companies should bear the cost of developing broadband infrastructure if there is market demand in rural areas. Furthermore, technological innovations in broadband services may soon be made that could make any infrastructure developed under this program outdated.

NOTES:

According to the fiscal note, the bill is anticipated to result in a five year general revenue cost to the comptroller of $3.8 million and require 5 additional FTEs to staff and perform the duties of the Broadband Development Office. The other fiscal implications of the bill cannot be determined and depend on the amount of financial incentives needed to expand broadband services in needed areas of the state.

The author plans to offer a floor amendment that would change the program application process if the Broadband Development Office upheld a protest against an application on the grounds that addresses in the eligible area had access to broadband service. In such a circumstance, the applicant could resubmit the application without the challenged addresses within 30 days of the date the office upheld the protest.

SUBJECT: Allowing the LCRA to provide infrastructure for broadband connectivity

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

1 absent — Smithee

WITNESSES: For — Tom Oney, Lower Colorado River Authority (LCRA); (*Registered, but did not testify*: JP Urban, AECT; Luis Acuna, Texas 2036; Oscar Rodriguez, Texas Association of Broadcasters; Charlie Leal, Texas Farm Bureau; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Walt Baum, Texas Cable Association)

DIGEST: CSHB 1715 would authorize the Lower Colorado River Authority (LCRA) to provide fiber capacity or facilities to facilitate broadband service connectivity. The LCRA could provide the capacity or facilities only on reasonable and nondiscriminatory terms and conditions. Certain provisions of the Public Utility Regulatory Act relating to telecommunications utilities would not apply to the LCRA.

The LCRA could not provide broadband service to a retail customer. The LCRA also could not agree to lease fiber capacity or facilities to a municipality to facilitate broadband service connectivity, other than for communications regarding utility operations, unless the LCRA:

- posted on its website information concerning the municipal lease proposal at least 90 days before entering into the lease agreement; and

- during the 90-day period after posting the information, the LCRA made the capacity or facilities available for lease to any commercial broadband provider offering broadband service in the municipality on the authority's standard terms and conditions.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1715 would increase access to broadband internet in certain rural and underserved areas by allowing the Lower Colorado River Authority (LCRA) to use existing and planned infrastructure to facilitate that access. Broadband access in areas served by the LCRA has consistently lagged behind that of more populous areas of the state, and this problem has become more acute during the pandemic when lack of broadband access has made working from home and other necessary tasks more difficult in rural and underserved areas.

Permitting the LCRA to provide its existing and planned infrastructure to facilitate broadband connectivity would allow it to connect service providers and communities in need of greater broadband access, increasing the opportunities for residents of these communities to access broadband internet. The requirement for LCRA to provide capacity or facilities on reasonable and nondiscriminatory terms would allow fair opportunity for service providers to contract with the LCRA.

Only existing and previously planned LCRA infrastructure would be used to provide this access, and the LCRA would not be granted authority to construct new infrastructure. The provision of this infrastructure would be paid for through contracts with service providers, and the LCRA would be prohibited from acting as a retail service provider.

It is unnecessary for CSHB 1715 to limit the areas in which LCRA infrastructure could be used under the bill to only those not currently served by a broadband service provider. Providers would be unlikely to contract with the LCRA to provide service in an area that already had sufficient broadband access or to contract with the authority when they already owned existing broadband infrastructure. Instead, the bill would

enable service providers to pursue opportunities to provide broadband service in areas that currently lack access.

In addition, the bill would provide a free market benefit by authorizing the LCRA to lease existing or planned infrastructure to service providers. Service providers should be free to make the economic choice to lease this infrastructure, and allowing them to do so could save providers the significant cost of building new infrastructure in rural areas. This would increase the likelihood that providers would expand their services to underserved areas, providing consumers in those areas with more choice.

CRITICS SAY:

While CSHB 1715 rightly focuses its attention on the issue of broadband access in rural and underserved areas, it could better accomplish its goal of providing access by limiting the provision of LCRA infrastructure to areas that are not currently served by broadband service providers. Any duplication of broadband access efforts in areas that currently have access could come at the expense of underserved areas.

OTHER CRITICS SAY:

CSHB 1715 would not be the best approach because broadband service providers, not the government, are best situated to anticipate and meet the needs of consumers with broadband infrastructure. Allowing these service providers to respond as the market demands and as advances in technology require is the most effective way to ensure that broadband access benefits consumers and business.

SUBJECT: Prohibiting government disaster orders from closing places of worship

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

WITNESSES: For — Pastor Cody Haynes, Faith Christian Cowboy Outreach Ministries; Michelle Taylor, GLAD Mission; Pastor Jorge Tovar, Jordan River Church and Texas Values; Donald Garner, Texas Faith & Freedom Coalition; Jonathan Saenz, Texas Values; Mary Castle and Jonathan Covey, Texas Values Action; Carolyn McClugage; Denise Seibert; (*Registered, but did not testify*: Rob Kohler, Christian Life Commission of the Baptist General Convention; Jason Niesing and Stephanie Niesing, Church Outside The Box; Chris Hill, Collin County; Michelle Davis, Convention of States; Charles Flowers, Faith Outreach Center International; Dr. Rodney Hargrove, Global Harvest Ministry; James Lennon and Robin Lennon, Kingwood TEA Party, Inc.; Theodore Thevaos, LifeShare Church; Tom Nobis, Republican Party of Texas; Ruth York, Tea Party Patriots of Eastland County and Texas Family Defense Committee; Mia McCord, Texas Conservative Coalition; David Welch, Texas Pastor Council; Kevin Roberts, Texas Public Policy Foundation; Gregory McCarthy, Texas Values Action; Jason Vaughn, Texas Young Republicans; Jennifer Allmon, The Texas Catholic Conference of Bishops; LaMoyne Davis, Tree of Life Church; Cody Jones, Tree of Life Church-New Braunfels, TX; Shelia Franklin, True Texas Project; and 47 individuals)

Against — Lee Kleinman, City of Dallas: (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; TJ Patterson, City of Fort Worth; and 10 individuals)

On — Kevin Stuart, Austin Institute For the Study of Family & Culture; Paul Hodson; (*Registered, but did not testify*: Thomas Parkinson)

DIGEST:

CSHB 1239 would prohibit a government agency or public official from issuing an order that closed or had the effect of closing places of worship in Texas or in a geographic area of the state. A place of worship would mean a building or grounds where religious activities are conducted. A public official would be any elected or appointed officer, employee, or agent of the state or any political subdivision, board, commission, bureau, or other public body established by law.

The bill would specify that the religious freedom statute under Civil Practice and Remedies Code ch. 110 was not considered a regulatory statute for purposes of a state of disaster declared under Government Code ch. 418. A provision of ch. 110 could not be suspended.

A person whose free exercise of religion had been substantially violated by a government order prohibited under the bill could assert that violation as a defense in a judicial or administrative proceeding without regard to whether the proceeding was brought in the name of the state or by any other person. The bill would apply only to a claim or defense that accrued on or after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1239 would ensure that houses of worship, which provide essential spiritual, mental, and physical support to Texans, remained open when they were most needed. The bill would prevent public officials from using a disaster declaration to close a church as happened in 2020 during the COVID-19 pandemic.

The unprecedented closure of churches, mosques, and synagogues last year negatively impacted many who were struggling with isolation and stress during the pandemic. Closing places where Texans gather to worship not only eliminated critical ministries and services but violated the religious freedoms guaranteed by our laws and Constitution.

At a time when businesses, including liquor stores, were deemed essential and allowed to remain open, churches were closed and some were even subjected to police patrols. While many churches offered online worship services, others were not able to use technology to reach their congregations.

The past year of social isolation led to increased reports of depression, anxiety, substance abuse, and even suicide. Allowing places where the faithful can find community and solace is critical to saving lives during future disasters.

While some say that public officials should retain the ability to include houses of worship in disaster-related orders to protect the common good, churches themselves can be trusted to make reasonable and appropriate decisions whether to be open or closed. Religious rights are protected in the U.S. Constitution, and church services should not be treated the same as secular gatherings.

The bill would not prevent a public entity such as a school district that leased a facility to a house of worship from closing the building during a disaster in accordance with a lease agreement.

CRITICS SAY:

CSHB 1239 could put all Texans at risk by allowing places of worship to remain open during a pandemic. The bill would restrict the ability of the governor and state and local officials to issue emergency orders that limit in-person religious services, even if the orders were treating religious services the same as all other gatherings. This would apply during any disaster, including hurricanes, floods, and fires.

Public officials who issued orders that closed churches early in the pandemic did so to prevent the spread of a highly communicable disease, not to prohibit religious expression. The bill could tie the hands of public officials in future disasters from enforcing health and safety codes. They could be prevented from closing a facility that had been damaged by a hurricane and was unsafe for public occupation.

SUBJECT: Extending eligibility for treatment court programs to some dispatchers

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — White, Bowers, Goodwin, Harless, Hefner, Morales, Patterson, Schaefer, Tinderholt

0 nays

WITNESSES: For — (*Registered, but did not testify*: Shelby Williams, City of Plano; Matthew Lovitt, National Alliance on Mental Illness (NAMI) Texas; AJ Louderback, Sheriffs Association of Texas; Lindy Borchardt, for Tarrant County Criminal District Attorney Sharen Wilson; Louis Wichers, Texas Gun Sense; Michael Fossum; Thomas Parkinson)

Against — (*Registered, but did not testify*: Zoila Vega-Marchena)

BACKGROUND: Government Code ch. 129 allows the commissioners court of a county to establish a treatment court program for public safety employees, defined to include peace officers, firefighters, detention officers, county jailers, and emergency medical services workers, as an alternative to regular criminal trial when such an employee is charged with a misdemeanor or felony.

Eligibility for the program applies to defendants who are current or former public safety employees and suffer from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that occurred during or resulted from the defendant's duties as a public safety employee and affected the defendant's criminal conduct at issue in the case, or whose participation in the program is likely to achieve the objective of ensuring public safety through rehabilitation. A defendant's participation in the program must be consented to by the prosecutor in the relevant case.

DIGEST: HB 788 would extend eligibility for participation in a public safety employees treatment court program established under Government Code ch. 129 to emergency service dispatchers.

The bill would take effect September 1, 2021, and would apply to a person who, on or after that date, entered the public safety employees treatment court program, regardless of when the person committed the relevant offense.

SUPPORTERS SAY:

HB 788 would provide critical support for the mental health and general well-being of an important class of first responders and enhance public safety by allowing emergency services dispatchers to participate in public employees treatment court programs.

Emergency dispatchers' direct engagement with the public is mentally and emotionally stressful and potentially even traumatizing. Participation in a treatment program can address the root causes of mental health problems that lead to misconduct and criminal behavior on the part of public employees. Participation in such programs has been shown to reduce subsequent arrests and days of incarceration and can help to break a cycle of incarceration and hospitalization. Emergency services dispatchers are certainly first responders, so they should have access to the same services that are available to police, firefighters and EMTs. HB 788 would ensure that dispatchers who commit a crime substantially related to their poor mental health had a chance to once again become productive members of society without further involvement in the criminal justice system.

CRITICS SAY:

No concerns identified.

SUBJECT: Modifying the Texas Real Estate Research Center and certain license fees

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — S. Thompson, Kuempel, Darby, Ellzey, Fierro, Geren, Guillen, Hernandez

0 nays

3 absent — Goldman, Huberty, Pacheco

WITNESSES: For — Tray Bates, Texas Realtors (*Registered, but did not testify*: Ned Muñoz, Texas Association of Builders; Daniel Gonzalez and Julia Parenteau, Texas Realtors)

Against — None

On — (*Registered, but did not testify*: Chelsea Buchholtz, Texas Appraiser Licensing and Certification Board and Texas Real Estate Commission)

BACKGROUND: The Texas Real Estate Research Center, housed at Texas A&M University, is governed by an advisory committee consisting of nine members appointed by the governor. Under Education Code sec. 86.53 the center is tasked with conducting and publishing studies relating to real estate and urban or rural economics, developing materials used in certain real estate courses, and assisting the Texas Real Estate Commission with developing accreditation standards for teaching agencies that give courses in real estate, among other responsibilities.

Under Occupations Code sec. 1101.154(b), certain fees are collected and transmitted to Texas A&M University to support the Texas Real Estate Center, including fees collected on the issuance and renewal of broker licenses, sales agent licenses, and certificates of registration.

DIGEST:

CSHB 2305 would revise provisions governing the Texas Real Estate Research Center's advisory committee, the collection of fees for certain licenses and certificates of registration, and other provisions.

Under the bill, the advisory committee could conduct a meeting by a conference call or virtually through a third-party internet application. Members of the public would have to be able to participate in the meeting unless it was a closed meeting under state law.

The bill would specify that a per diem for a member of the advisory committee or compensation for travel expenses would be provided by the center's budget, rather than set by legislative appropriation. The bill also would specify that the constitutional oath of office taken by appointees to the Texas Real Estate Research Center had to be taken by the 15th calendar day after the individual's appointment.

CSHB 2305 also would specify that fees for a broker license, sales agent license, or certificate of registration would be collected for each year of the term for which the license was issued or renewed. This provision would apply only to the issuance or renewal of a license or certificate of registration on or after the bill's effective date.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 2305 would modernize the Texas Real Estate Research Center by updating its language and practices. The bill also would allow the center to maintain its funding level by clarifying the collection of certain license fees in statute.

The bill would not create additional fees but merely update the statute to reflect how licenses and certificates of registration are issued and renewed today. Revising provisions to specify that the collection of these fees applied to each year of the license term would reflect the original intent behind the center's funding.

CRITICS SAY:

CSHB 2305 would inappropriately increase fees for individuals seeking to obtain or renew a broker license, sales agent license, or certificate of registration.

SUBJECT: Exempting nonprofit animal rescues from sales and use taxes

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Sanford, Shine

0 nays

1 absent — Rodriguez

WITNESSES: For — Katie Jarl, Texas Pets Alive; (*Registered, but did not testify*: Jeff Coyle, City of San Antonio; Stephen Grant, Popp Hutcheson PLLC; Stacy Sutton Kerby, Texas Humane Legislation Network; Lauren Loney, The Humane Society of the United States; James LeBas; Hilary Shurtleff)

Against — (*Registered, but did not testify*: Susana Carranza; Idona Griffith; Robert Norris)

On — (*Registered, but did not testify*: Karey Barton and Tom Currah, Comptroller of Public Accounts)

BACKGROUND: Tax Code sec. 151.343 exempts nonprofit animal shelters from sales and use taxes associated with the sale of an animal, including the acceptance of a fee for adoption.

Health and Safety Code sec. 823.001 defines an animal shelter as a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals. Sec. 821.021 defines a nonprofit animal welfare organization as a nonprofit organization that has as its purpose the prevention of cruelty to animals or the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

DIGEST: HB 2510 would add nonprofit animal welfare organizations to the sales tax exemption under Tax Code sec. 151.343.

The bill would take effect October 1, 2021, and would not affect tax liability accruing before that date.

SUPPORTERS SAY:

HB 2510 would clarify that all nonprofit animal adoption groups in Texas were exempt from sales and use taxes for the sale of an animal or the acceptance of an adoption fee by including nonprofit animal welfare organizations, including animal rescue and shelter organizations, in the statutory tax exemption. Currently, if a Texan adopts an animal from a nonprofit animal shelter, no sales tax is associated with the transaction, but if the adoption occurs at an animal rescue then taxes are collected on the sale or adoption fee. This has caused confusion around who must collect a sales tax when offering an animal for adoption, which HB 2510 would resolve.

Nonprofit animal shelters take in thousands of animals each year, and animal rescues end up housing many of these animals to alleviate some of the shelters' financial burdens and to ensure that the animals are placed in good homes. Animal rescues often pull animals with expensive medical cases from municipal and county shelters and cover the costs for any associated medical procedures, saving taxpayer money and the animals' lives. A sales and use tax exemption for animal rescue groups would ensure that they could recoup the costs of their work through tax-exempt adoption fees, better enabling them to continue to do the expensive work of supporting shelters and rescue animals.

CRITICS SAY:

No concerns identified.

SUBJECT: Creating a program to financially assist veterans seeking energy jobs

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 9 ayes — Raymond, Buckley, Biedermann, Cyrier, Gervin-Hawkins, Lambert, Lopez, Morales, Tinderholt

0 nays

WITNESSES: For — Steven Price, The Texas Democratic Veterans Caucus and The VOICES Foundation; (*Registered, but did not testify*: Daniel Collins, County of El Paso; Mitch Fuller, Texas Veterans of Foreign Wars; Daniel Womack, Dow Inc.; Mike Meroney, Texas Association of Manufacturers; Ryan Paylor, Texas Independent Producers and Royalty Owners Association; Thomas Parkinson)

Against — None

On — Shawn Deabay, Texas Veterans Commission; (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations)

DIGEST: CSHB 739 would require the Texas Veterans Commission to develop and administer a grant program to provide financial assistance to veterans seeking a certification or training for employment in the energy industry. The commission would be required to adopt rules to implement the program, including rules establishing criteria for eligibility and grant terms.

The bill also would require the commission, in coordination with the General Land Office and Veterans' Land Board, to conduct an outreach campaign to encourage veterans to participate in the program.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: CSHB 739 would establish a program to provide financial assistance for veterans seeking training for energy industry employment, which would support further job and training opportunities for veterans, improve their

economic mobility, and provide skilled employees for the energy industry that is central to the state's economic prosperity.

Although military service frequently provides veterans with skills and training well suited to employment in the energy sector, veterans often face financial and logistical challenges to entering this critical and expanding field. A program specifically focused on bringing veterans into the energy industry would help combat these difficulties and support veterans seeking a meaningful career. The program created by the bill also could make Texas more attractive to veterans transitioning to civilian life by facilitating their access to the stable, high-paying jobs the energy sector can provide and would contribute to the broader effort to ease the burden of transition for veterans and their families.

In addition, the challenges posed by Winter Storm Uri have reinforced the how essential the energy industry, and skilled energy workers, are for Texas. CSHB 739 would help answer the need for energy workers by directing financial assistance to veterans seeking to become skilled employees in this industry.

While existing state and federal programs currently provide support for veterans' certification and employment training, the targeted program created by CSHB 739 would be appropriate because of the particular suitability and transferability of military skills to the energy sector, as well as the outstanding need for skilled workers in the industry. It is not anticipated that the bill would impose any additional costs to the state, and the program it would establish could pave the way for the use of federal funds to support these training initiatives.

CSHB 739 would not create a privileged status for veterans over other citizens but simply would create a targeted program within the special considerations already and deservedly given to veterans in light of their service.

CRITICS SAY:

CSHB 739 is unnecessary because the federal GI bill already covers certifications and trainings for veteran employment. The bill also could cost the state additional money and establish a further privilege for veterans over the rest of the population.

NOTES:

The author plans to offer a floor amendment to CSHB 739 that would establish a "program" rather than a "grant program." References to grants and related rule-making instructions would be deleted.

SUBJECT: Amending certain property tax rate public hearing notice requirements

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Sanford, Shine

0 nays

1 absent — Rodriguez

WITNESSES: For — Bill Longley, Texas Municipal League; John Carlton, Texas State Association of Fire and Emergency Districts; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Jim Allison, County Judges and Commissioners Association of Texas; Cheryl Johnson, Galveston County Tax Office; Christopher Young, Linebarger)

Against — None

On — (*Registered, but did not testify*: Korry Castillo, Comptroller of Public Accounts)

BACKGROUND: Tax Code ch. 26 governs how local taxing units may propose and adopt property tax rates. A proposed rate must be approved by election if a taxing unit other than a special taxing unit or a municipality with a population under 30,000 adopts a rate exceeding the voter-approval tax rate or the de minimis rate, whichever is greater.

The "voter-approval rate" for a taxing unit other than a special unit is the rate that would increase tax revenues by 3.5 percent. For special taxing units, the voter-approval rate is the rate that would increase revenues by 8 percent. The "de minimis rate" is the rate that would increase tax revenues by $500,000.

The voters of certain taxing units may petition to require an election to be held to determine whether to lower the tax rate to the voter-approval rate if the adopted rate is less than or equal to the de minimis rate and greater

than the voter-approval rate as calculated for either a taxing unit or a special taxing unit, whichever was greater.

A taxing unit other than a school district may not adopt a tax rate until the governing body has held a public hearing. Under sec. 26.063, certain provisions must be added to those public hearing notices when the de minimis rate of a taxing unit exceeds the voter-approval rate, including information on required elections or the ability of voters to petition.

DIGEST:

HB 2429 would amend public hearing notice requirements for a taxing unit that proposed a property tax rate exceeding the voter-approval rate, but was not required to hold an automatic election and for which voters could not petition to hold an election.

Instead of providing notice that an election was required, the notice would have to include a statement that the proposed rate was greater than the voter-approval tax rate but not greater than the de minimis rate and did not exceed the rate that allowed voters to petition for an election. The notice also would state that if the taxing unit adopted the proposed rate, it would not be required to hold an election on the rate.

The notice also would have to include certain information about the de minimis rate.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021. The bill would apply only to a tax rate notice provided on or after the effective date.

SUPPORTERS SAY:

HB 2429 would address an oversight in law by providing additional notice requirements for a public hearing on a taxing unit's proposed property tax rate. Currently, the law does not include a notice for a situation in which a taxing unit's proposed rate exceeds the voter-approval tax rate but does not exceed an 8 percent increase (the voter-approval rate as calculated for a special taxing unit) or the de minimis rate. This means that some taxing units have had to provide inaccurate statements to their taxpayers regarding a required election to determine the tax rate when such an election is not actually required. The bill would require those taxing units

to provide factual information to their taxpayers by including a statement in the public hearing notice that while the proposed rate was higher than the voter-approval rate, it did not qualify for an automatic election or a petition to hold an election.

CRITICS SAY:

No concerns identified.

SUBJECT: Requiring notification of the right to record a DFPS interview

COMMITTEE: Human Services — committee substitute recommended

VOTE: 9 ayes — Frank, Hinojosa, Hull, Klick, Meza, Neave, Noble, Rose, Shaheen

0 nays

WITNESSES: For — Andrew Brown, Texas Public Policy Foundation; Melissa Bright; Matthew Maldonado; (*Registered, but did not testify*: Meagan Corser, Texas Home School Coalition)

Against — Judy Powell, Parent Guidance Center; Krista McIntire

On — Sophia Karimjee, Department of Family and Protective Services

BACKGROUND: Family Code ch. 261 requires the Department of Family and Protective Services (DFPS) to investigate a report of child abuse or neglect allegedly committed by a person responsible for a child's care or welfare. Sec. 261.302 specifies that an investigation may include certain interviews of the parties involved.

DIGEST: CSHB 135 would require that the Department of Family and Protective Services (DFPS), before interviewing an alleged perpetrator of child abuse or neglect, provide oral and written notification that:

- the person could create an audio recording of the interview but could not record the interview in any other manner; and
- any audio recording made by the person could be subject to subpoena under a court order.

DFPS would be required to document in its case files that it provided this notification. DFPS would be required to provide two copies of the written notice to be signed by the alleged perpetrator, with one provided to the alleged perpetrator and the other retained in the case file.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 135 would help provide accountability and transparency in Department of Family and Protective Services (DFPS) investigations by requiring that DFPS provide verbal and written notification to those accused of child abuse or neglect of their right to create an audio recording of an interview. Child welfare investigations can be traumatic for families, and they can result in one of the most severe penalties that our justice system can impose: the termination of parental rights. The notice required by the bill would ensure that families undergoing investigations were aware of their right to record a DFPS interview, a recording that could be used to dispute investigative findings if necessary.

Knowledge of the rights surrounding DFPS interviews has been shown to contribute to improved outcomes in child welfare cases, including preventing removals and reducing the length of stays in foster care. Currently, alleged perpetrators are allowed to record DFPS interviews, but many individuals are unaware of this. DFPS caseworkers are not required to record an interview of an adult, and this can lead to investigative findings based solely on a caseworker's observations and notes. Oral and written notification of the right to record would provide individuals who chose to record an interview with an unbiased piece of evidence that could be compared against a caseworker's findings.

CSHB 135 would require that DFPS inform an alleged perpetrator before an interview that an audio recording taken of the interview could be subject to subpoena under a court order, allowing the individual to decide whether to record and how to conduct themselves if they chose to do so. During a court proceeding, the discovery process already allows a party to subpoena supporting documents, so concerns about alleged perpetrators losing their ability to privately record investigative interviews are misplaced.

CRITICS SAY:

CSHB 135 could deprive a parent or guardian accused of abuse or neglect of the ability to discreetly record a DFPS investigative interview by requiring that DFPS inform an individual of the right to record the interview. People already are allowed to record DFPS investigative

interviews, and requiring that DFPS inform the individual of this right would result in an overall awareness that a recording was being made.

In addition, if a parent or guardian had made a recording of an interview and inadvertently spoken in a way that could be construed as harmful to the parent's case, even if it did not relate to their parental duties, DFPS could issue a subpoena for every audio recording of the interview.

SUBJECT: Issuing a noncertified copy of original birth certificate to adult adoptees

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Klick, Guerra, Allison, Campos, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

1 absent — Coleman

WITNESSES: For — Elizabeth Jurenovich, Abrazo Adoption Associates; Marley Greiner, Bastard Nation, The Adoptee Rights Organization; Joellen Peters, Support Texas Adoptee Rights; Shawna Hodgson, Texas Adoptee Rights Coalition; Noel Johnson; (*Registered, but did not testify*: Marci Purcell, Adoption Knowledge Affiliates; Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Marla Smith, Support Texas Adoptee Rights; Connie Gray, Texas DNA and Adoptee Search Support; Cynthia Bohnenblust; Thomas Parkinson; Katy Perkins; Kimberly Sarantakes; Dawn Scott)

Against — (*Registered, but did not testify*: Joe Pojman, Texas Alliance for Life)

On — (*Registered, but did not testify*: Tara Das, Department of State Health Services)

BACKGROUND: Health and Safety Code sec. 192.008 governs birth records of adoptees, including supplementary birth certificates issued for adopted children. Under this section, only the court that granted an adoption may order access to an original birth certificate and other filed documents, with certain exceptions. Adult adoptees are entitled to a noncertified copy of their original birth certificate without obtaining a court order if they apply for access and know the name of each parent named on the original birth certificate.

Sec. 192.008 also requires the executive commissioner of the Health and Human Services Commission to adopt rules and procedures to ensure information under control of state or local registrars and accessible to the public does not violate confidentiality of adoption placements.

Health and Safety Code ch. 191 establishes that the state registrar of vital statistics is the Department of State Health Services (DSHS).

DIGEST:

HB 1386 would require the state registrar of vital statistics, on written request and under certain conditions, to provide a noncertified copy of an adopted person's original birth certificate without obtaining a court order. This copy would have to be provided to the adopted person or, if the adopted person was deceased, to an adult descendant, adult sibling, surviving spouse, or adoptive parent of the adopted person. The noncertified copy could be provided to an eligible person if:

- the adoptee was born in this state;
- the request was made on or after the adoptee's 18th birthday;
- a supplementary birth certificate was issued for the adoptee; and
- the person requesting the noncertified copy of the original birth certificate provided, in person or by mail, appropriate proof of the person's identity.

For a noncertified copy of a person's original birth certificate provided under the bill, the state registrar would have to collect a fee equal to the fee charged for issuing a noncertified copy. The registrar also would have to issue the copy within the prescribed time for other noncertified copies of birth certificates.

The state registrar would not be required to comply with these provisions until July 1, 2022.

The bill also would specify that rules and procedures adopted by the executive commissioner of the Health and Human Services under sec. 192.008 had to be consistent with that section, including the provisions of HB 1386.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 1386 would increase an adopted person's ability to obtain a copy of the person's original birth certificate without a court order. Currently, adoptees must petition the court in which their adoption took place in order to receive a copy of their original birth certificate unless they know the names of their birth parents and can obtain a copy of their birth certificate without a court order. This can make it difficult for many adoptees to access their original birth certificates, which they may want or need to do for a variety of reasons, including a desire to learn about hereditary health conditions from their biological parents. By expanding the circumstances in which a court order would not be needed for an adopted person to acquire a copy of an original birth certificate, HB 1386 would reduce barriers for those requesting access to such certificates and help provide adoptees with critical information on their biological family's history.

CRITICS SAY:

HB 1386 could violate the anonymity of a birth parent's identity by making it easier for an adopted person to obtain a copy of the person's original birth certificate. Currently, birth parents who place their child for adoption may request that their identity remain confidential. By allowing adult adoptees to obtain a noncertified copy of their original birth certificate without a court order, the bill could violate birth parents' wishes for anonymity.

SUBJECT: Commissioning a study on the joint use of certain public facilities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

1 absent — Smithee

WITNESSES: For — (*Registered, but did not testify*: Frank Holman; Thomas Parkinson; Ruth York)

Against — None

DIGEST: HB 587 would require the Texas Facilities Commission to conduct a study to assess the availability and suitability of unused and underused public facilities for joint use by two governmental entities, including the state, a county, a municipality, or a school district. The commission would assess the economic advantages of joint-use agreements and submit a written report on the study results to the governor, lieutenant governor, the House speaker, and members of the Legislature by December 1, 2022. The bill's provisions would expire January 1, 2023.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: HB 587 would help the state save tax dollars by conducting a study that could identify public facilities that currently are sitting idle or not being used to their full potential. Public facilities are expensive to build, operate, and maintain, and state and local taxing entities have an obligation to maximize the return on taxpayers' investments.

The Comptroller's office has estimated that about 2,500 governmental entities in Texas could enter into joint-use partnerships, which suggests a large capacity for savings across the state. An example of a successful joint-use partnership would be Pickle Elementary School, which is a joint-

use venture between the City of Austin and the Austin Independent School District. It houses a public elementary school, a public library, and a community clinic. The city and the school district benefit by sharing the facilities, maintenance, and operations costs, which allows community members access to key services under one roof.

Like housemates who share rent, utility costs, and other expenses, the co-location of governmental entities in underused facilities could result in their more efficient use, a reduction in overall costs, and a decreased burden on Texas taxpayers.

If the study indicated significant capacity for joint-use agreements and savings, the Legislature would have the information it needed to pursue this opportunity in future sessions.

CRITICS SAY:

According to the fiscal note, the study that would be required by the bill could cost more than $900,000, which could create a financial burden for the Texas Facilities Commission.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $918,449 to general revenue related funds through fiscal 2022-2023.

SUBJECT: Specifying collection of certain fees and taxes by marketplace providers

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Sanford, Shine

0 nays

1 absent — Rodriguez

WITNESSES: For — John Kroll, AEG and AXS Tickets; (*Registered, but did not testify*: Colin Parrish, Amazon)

Against — None

On — (*Registered, but did not testify*: Karey Barton, Comptroller of Public Accounts)

BACKGROUND: Tax Code sec. 151.0242 defines a "marketplace" as a physical or electronic medium through which persons other than the owner or operator sell taxable items. The term includes a store, website, software application, or catalogue. A "marketplace provider" is the owner or operator of a marketplace.

Health and Safety Code sec. 361.138 requires a wholesale or retail battery dealer who sells a lead-acid battery to collect a fee of two to three dollars, depending on the capacity of the battery.

Tax Code sec. 771.0712 imposes a prepaid wireless 911 emergency services fee of two percent of the purchase price of a prepaid wireless telecommunications service, which must be collected by the seller.

Tax Code sec. 151.304 exempts from sales and use taxes the occasional sale of a taxable item in certain circumstances, including when one or two sales are made in a year by a person who does not habitually engage in retail.

DIGEST:

CSHB 2398 would specify the fees and taxes that marketplace providers were required to collect. The bill would require a marketplace provider to collect and remit in the same manner as other sellers, effective July 1, 2022:

- the lead-acid battery fee; and
- the prepaid wireless 911 emergency service fee.

A seller who placed a ticket or other admission document for sale through a marketplace would have to certify to the marketplace provider that the sales and use taxes imposed on the original purchase of the ticket or document were paid. A provider who in good faith accepted the certification could deduct the adjusted value of the ticket or document purchased for resale from taxable sales reported.

State law governing occasional sales would not apply to the sale of a taxable item made by a seller through a marketplace.

The bill would take effect October 1, 2021, except as otherwise provided, and would not affect tax liability accruing before that date.

SUPPORTERS SAY:

CSHB 2398 would bring uniformity to the way marketplace providers and other sellers collect certain taxes and fees. Last session, the Legislature enacted a bill requiring marketplace providers to collect and remit to the comptroller sales and use taxes. This bill simply would clarify the law by requiring providers to collect certain fees on batteries and telecommunications services at the same time that they collected sales and use taxes on those items. The bill also would make clear the process by which marketplace providers could accept certification from sellers that taxes had been paid on the resale of tickets through the marketplace and deduct those costs from their taxable sales.

The bill rightly would state that the occasional seller exemption did not apply to taxable sales made through a marketplace, which is current policy. Marketplaces are often set up for the express purpose of retail, so those sales should not receive the exemption. Furthermore, it would be impractical and administratively difficult to determine if a marketplace seller was an occasional seller.

CRITICS SAY:

CSHB 2398 wrongly would exclude marketplace sellers from the tax exemption on occasional sales. Since this sales tax exemption is otherwise available for sellers in different venues, online and marketplace sellers also should benefit from the exemption.

SUBJECT: Notifying next of kin when non-pending death certificates are modified

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Guerra, Allison, Campos, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

1 absent — Coleman

WITNESSES: For — Shannon Dion, Secure Our Seniors' Safety; Cheryl Pangburn; (*Registered, but did not testify*: Charles Reed, Dallas County Commissioners Court)

Against — (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court)

On — (*Registered, but did not testify*: Tara Das, Department of State Health Services; Russell Schaffner, Tarrant County; Clayton Stewart, Texas Medical Association)

BACKGROUND: Health and Safety Code ch. 193 requires the Department of State Health Services to prescribe the form and contents of death certificates.

DIGEST: CSHB 723 would require written notice to be provided to a decedent's next of kin when a request was made to modify the medical certification information on a non-pending death certificate. The person who submitted the request to the Department of State Health Services would have to provide the notice.

The bill would take effect September 1, 2021, and would apply only to a death certificate for which an amendment was requested on or after the bill's effective date.

SUPPORTERS SAY: CSHB 723 would ensure a decedent's next of kin would be directly notified by a professional of any changes made to a non-pending death

certificate. Concerns have been raised about the lack of requirement for such notification when the cause of death is amended on a death certificate. CSHB 723 would provide a simple, timely courtesy to grieving families and help prevent situations in which families discovered a decedent's true cause of death secondhand.

Some reports indicate that the bill would apply only to a small number of death certificates. The bill's fiscal note indicates that no significant fiscal implication to the state or units of local government would be anticipated.

CRITICS SAY:

CSHB 723 would require that next of kin be notified whenever a non-pending death certificate was changed, a requirement that could affect a large number of death certificates. To meet the bill's requirements, larger metropolitan counties could have to hire additional staff, which could increase administrative costs. To reduce counties' administrative burden and narrow the scope of CSHB 723, it could be better if the bill applied only to non-pending death certificates that were changed to reflect that the decedent died by homicide.

SUBJECT: Procedures for protective orders in family violence, other specified cases

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu

0 nays

WITNESSES: For — Marvina Robinson, Tarrant County Criminal District Attorney's Office; Elizabeth Boyce, Texas Association Against Sexual Assault; Krista Delgallo, Texas Council on Family Violence; Bill Morris, Texas Family Law Foundation; Paige Flink, The Family Place; (*Registered, but did not testify*: Daniel Collins, County of El Paso; M. Paige Williams, for Dallas Criminal District Attorney John Creuzot; Lindy Borchardt, Tarrant County Criminal District Attorney; Stephen Lund, Tarrant County Criminal District Attorney; Rachana Chhin, Texas Catholic Conference of Bishops; Amy Bresnen and Steve Bresnen, Texas Family Law Foundation; Thomas Parkinson)

Against — (*Registered, but did not testify*: Jeffrey Morgan; David OConnor)

On — (*Registered, but did not testify*: Robert Garza)

BACKGROUND: Family Code ch. 85 governs the issuance of protective orders and family violence.

Issuing certain protective orders. Family Code sec. 85.021 establishes requirements for protective orders applying to any party and authorizes courts to take actions relating to various people or things, including children, property, pets, and support payments.

Family Code sec. 85.022 establishes requirements for protective orders applying to individuals found to have committed family violence. It includes a list of specific items that courts may require of persons found to have committed family violence.

Under Family Code sec. 85.001, courts are required to make certain findings about whether family violence has occurred. If such a finding is made and the court finds that family violence is likely to occur in the future, the court must issue a protective order under sec. 85.022, applying only to the person found to have committed family violence. The court may issue a protective order under sec. 85.021 applying to both parties.

Enforcing protective orders. Family Code secs. 85.005 (a) and (b) authorize the parties to an order or the subject of an order provided under sec. 85.021 and 85.022 to agree to the terms of an order. Agreed orders issued under sec. 85.022 are enforceable civilly or criminally.

Applying for, rescinding protective orders. Code of Criminal Procedure art. 7B governs protective orders issued for specific offenses and allows victims of the following offenses to file applications for an order: continuous sexual abuse of a child, indecency with a child, sexual assault, aggravated sexual assault, stalking, human trafficking, continuous human trafficking, and compelling prostitution.

Under CCP 7B.001, victims of such offenses may request a protective order, and for some offenses, parents or guardians acting on behalf of those younger than 17 may make the request. For other offenses, parents or guardians acting on behalf of those younger than 18 may make a request. Prosecutors acting on behalf of victims also may request the orders.

Applications to rescind these orders may be filed by victims either 17 or 18 years old, depending on the offense. Parents or guardians also may make a request to rescind the protective order if the victims are younger than these ages.

DIGEST:

HB 39 would expand the type of protective orders that could be civilly and criminally enforceable, require proof of service before certain default protective orders could be issued, and allow default protective orders to be rendered without meeting certain civil procedure rules. The bill also would revise who could apply for certain protective orders relating to cases of sexual assault or abuse, stalking, or trafficking and who could

apply to rescind them. It also would add to the items about which victims of these offenses had a right to be informed and who could receive that information.

The bill would make changes to conform the statutes to HB 4173 by Leach, enacted by the 86th Legislature, which made nonsubstantive revisions to the Code of Criminal Procedure. The revisions included repealing Chapter 7A on protective orders for victims of sexual assault or abuse, indecent assault, stalking, and trafficking and merging its provisions with the current Subchapter A of Chapter 7B on protective orders for the specified offenses.

Enforcing protective orders. HB 39 would make civilly and criminally enforceable the agreed protective orders issued under Family Code sec. 85.021, which are orders that can apply to any party.

The enforcement mechanisms for these orders and those issued under Family Code sec. 85.022, which apply to those found to have committed family violence and are civilly and criminally enforceable under current law, would apply regardless of whether a court made a specific finding outlined in Family Code 85.001 that family violence had occurred and was likely to occur in the future.

These changes would apply to orders approved by courts on or after the bill's effective date.

Issuing protective orders. The bill would add to the current requirements that allow courts to issue protective orders binding on individuals who do not attend a court hearing but have been served with the application and notice of the hearing. HB 39 would require that in the case of these default protective orders, proof of the service be filed with the court before the hearing.

The bill would make a court's authority to issue a default protective order not subject to Rule 107 of the Texas Rules of Civil Procedure, which governs return of notice of the serving of legal documents.

HB 39 would make the changes relating to default protective orders apply to protective orders for which respondents received service on or after the bill's effective date.

Applying for, rescinding protective orders. CSHB 39 would expand who could file requests for protective orders for victims of specific offenses relating to sexual assault or abuse, stalking, or trafficking.

Current provisions that allow all victims to apply and parents or guardians acting on behalf of victims younger than 17 for some offenses and those younger than 18 for other offenses would be revised. Victims of all the specified offenses could continue to apply for an order, and the bill would allow requests to be made by any adult acting on behalf of victims younger than 18 years old or an adult ward.

HB 39 would revise who could file applications to rescind protective orders for specific offenses relating to sexual assault or abuse, stalking, or trafficking. Victims would have to be 18 years old or older to file to have protective orders rescinded for all the specified offenses, instead of the current 17 or older in some circumstances.

Parents or guardians could continue as under current law to file requests to rescind the protective orders, but the authority would apply to victims of the specified offenses who were younger than 18 years old, instead of being restricted to parents and guardians of victims younger than 17 years old for certain offenses. Parents and guardians of adult wards would be given authorization to request a protective order be rescinded as would any adult who filed an application acting on behalf of someone younger than 18 under the authority established by the bill. However, parents and guardians who were the alleged offender and subject of a protective order would be prohibited from requesting that an order be rescinded.

These changes would apply to protective orders for which applications were filed on or after the bill's effective date.

Crime victims' rights. HB 39 would add to the current type of information about which victims of offenses related to sexual assault or

abuse, stalking, or trafficking had a right to be informed and would expand who could receive that information.

The bill would add other adults acting on behalf of victims younger than 18 to those who also had a right to this information, and it would include parents and guardians of adult wards among those who had a right to be given information about protective orders.

Victims, and parents or guardians in the case of victims younger than 18 years old or adult wards, would have a right to be informed that prosecutors were required to file applications for protective orders in these cases if the defendant was convicted of or placed on deferred adjudication and a right to be notified when a prosecutor filed an application for these types of protective orders.

These provisions would apply to victims for which a conviction or grant of deferred adjudication community supervision in the case was made on or after the bill's effective date, regardless of when the offense occurred.

Other provisions. The bill would revise when the criminal offense of violating a protective order for a victim of specified offenses related to sexual assault or abuse, stalking, or trafficking was punished as a state jail felony. Instead of being a state jail felony only when the order that was violated was issued when a prosecutor applied for it after a defendant had been convicted or placed on deferred adjudication, the bill would make it a state jail felony to violate any protective order issued under Code of Criminal Procedure, ch. 7B relating to victims of sexual assault or abuse, stalking, or trafficking.

To the extent of conflicts, HB 39 would prevail over other acts of the 87th Legislature, regular session, relating to nonsubstantive additions and corrections in enacted codes.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 39 would better protect victims of family violence and of certain offenses related to sexual assault or abuse, stalking, or trafficking by eliminating barriers to obtaining and enforcing protective orders. Increases

in domestic violence incidents during the pandemic have illustrated the need to streamline and improve the processes for applying and enforcing protective orders in these cases. These orders are important for the safety of survivors, and making it easier to enforce the orders and apply for them would help protect more survivors.

Enforcing protective orders. Expanding the Family Code protective orders that are enforceable by both civil and criminal means would increase the options for making sure protective orders in cases of family violence, other offenses related to sexual assault or abuse, stalking, or trafficking were followed.

Enforcing protective orders civilly can be a long, time-consuming process that could be inappropriate in family violence or other cases covered by HB 39 since in many situations enforcement needs to be immediate to keep survivors safe. HB 39 would give the same protection to victims of orders issued under Family Code sec. 85.021 and sec. 85.022 by extending both civil and criminal enforcement mechanisms to both. Given the seriousness of violating protective orders in these cases, it is appropriate and necessary to enforce them criminally.

Issuing protective orders. HB 39 would ensure that courts in all areas of the state were operating under the same rules for issuing default protective orders by placing in the statute an exemption from Rule 107 of the Texas Rules of Civil Procedure. Excluding these proceedings from the rule would allow them to proceed in the most expedited way, which is necessary to protect survivors. Requiring that proof of service to the individual who will be subject to the order be filed with the court would make sure courts were acting with complete information.

Applying for, rescinding protective orders. The bill would better protect victims by expanding who could file for protective orders for victims of offenses related to sexual assault or abuse, stalking, or trafficking. The bill would allow any adult acting on behalf of a victim younger than 18 to make the application, recognizing that some victims are not close to their parents or guardians and that other adults can act on their behalf. This expansion would not lead to unnecessary protective

orders because courts would evaluate requests made by other adults just as they do current requests.

The bill would harmonize who could request that protective orders be rescinded with who could request one. Recognizing that in some cases it is the parent or guardian who is harming the victim, the bill would prohibit them from requesting that a protective order relating to these offenses be rescinded.

Crime victims' rights. HB 39 would make sure victims, guardians, and others acting on their behalf and on the behalf of adult wards were fully informed of important information about prosecutors filing for protective orders in these cases.

Other provisions. The bill would ensure that all protective order violations under Code of Criminal Procedure, ch. 7B that follow a conviction or deferred adjudication and are against a victim of an offense could be punished as a state jail felony. These are serious cases and all violations should carry the same punishment, regardless of who applied for the protective order.

CRITICS SAY:

HB 39 could open the door too wide on who could apply for protective orders by allowing any adult to do so on behalf of someone under 18.

Expanding the consequences of violating a protective order could possibly go too far in some cases, especially if the individual subject to the order did not have a lawyer and might not have fully understood the consequences of violating the order.

SUBJECT: Requiring DSHS to establish bone marrow donor recruitment program

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Klick, Guerra, Allison, Campos, Coleman, Jetton, Oliverson, Price, Smith

0 nays

2 absent — Collier, Zwiener

WITNESSES: For — Yusuf Khan; (*Registered, but did not testify*: Shayne Woodard, Donate Life Texas; Joe Pojman, Texas Alliance for Life; Dan Finch, Texas Medical Association; Jackson Milton, Texas Right to Life; Randy Cubriel; Thomas Parkinson)

Against — None

BACKGROUND: 42 U.S.C. sec. 274k establishes the National Bone Marrow Donor Registry.

DIGEST: CSHB 780 would require the Department of State Health Services (DSHS) to establish a bone marrow donor recruitment program to educate Texas residents about:

- the need for bone marrow donors, including those from minority populations;
- the requirements for registering with the federally authorized bone marrow donor registry under 42 U.S.C. Sec. 274k as a potential bone marrow donor, including procedures for determining an individual's tissue type;
- the medical procedures an individual would have to undergo to donate bone marrow or other sources of blood stem cells; and
- the availability of bone marrow donation information in health care facilities, blood banks, and driver's license offices.

DSHS, in consultation with the federally authorized bone marrow donor registry, would have to develop written and electronic informational materials, including links to websites, on bone marrow donation and the federal registry's registration process. The federally authorized bone marrow donor registry could develop and provide the required informational materials.

The bill would require DSHS and the Department of Public Safety to post the required information on each agency's respective website. Appropriate health care facilities, blood banks, and driver's license offices could access and print the posted materials to place in their respective facilities to provide to Texas residents.

As soon as practicable after the bill's effective date, DSHS would have to establish the bone marrow donor recruitment program and obtain the required informational materials.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 780 would increase awareness of bone marrow donation in Texas. Bone marrow donations are critical for assisting individuals diagnosed with life-threatening diseases such as leukemia, sickle cell disease, and lymphoma. By requiring bone marrow donation materials to be posted online on the Department of State Health Services and Department of Public Safety's websites, the bill would help make information accessible to Texans on how they could become potential bone marrow donors.

A patient's chances of finding a donor match vary widely based on their ethnic background, and minorities generally have a smaller likelihood of finding an appropriate bone marrow donor. Texas is an ethnically diverse state, and requiring the recruitment program to advertise the need for bone marrow donors from minority populations could help increase chances of finding an appropriate match.

CRITICS SAY:

CSHB 780 is unnecessary because it would duplicate existing bone marrow donation awareness efforts by private charitable organizations.

SUBJECT: Requiring annual independent audit of ERCOT organization

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

1 absent — Smithee

WITNESSES: For — (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club)

Against — None

On — (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas; Verma Elliott, State Auditor's Office)

BACKGROUND: Utilities Code sec. 39.151 requires the Public Utility Commission to certify one or more independent organizations to perform certain functions related to the state's electric grid and competitive electricity market, including ensuring the reliability and adequacy of the regional electric network.

In 1996, the Electric Reliability Council of Texas, also known as ERCOT and referred to here as the ERCOT organization, became the independent operator for the ERCOT power region.

DIGEST: HB 2586 would require the Public Utility Commission (PUC) to have an independent audit made annually of each independent organization certified for the ERCOT power region (ERCOT organization).

An audit would have to examine the ERCOT organization’s financial condition, including its budget and expenses and the salaries of employees and board members, and compliance of its assets with all applicable PUC standards.

The PUC would have to publish the results of an audit on its website and submit the results to the Legislature within 60 days after the audit was completed.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 2586 would answer calls to address ERCOT governance, oversight, and transparency after extended, widespread power outages during Winter Storm Uri left millions of Texans without power and led to loss of life and property. Several issues have been identified as playing significant roles in the failure of the electric grid, including areas of mismanagement in the ERCOT organization and insufficient accountability of the organization to the PUC.

The bill would help ensure the reliability of the electric grid and protect consumers by requiring an annual independent audit of the ERCOT organization. Current law and agency rules only allow the PUC to conduct audits of the ERCOT organization's performance of functions and its financial matters and provide that the PUC may require an independent organization to conduct such an audit. Additionally, the organization's internal policies allow for an internal auditing program via an executive who serves at the pleasure of the ERCOT organization's CEO. HB 2586 would enhance PUC oversight of the ERCOT organization by no longer leaving a performance and financial audit to the discretion of the PUC, making certain the organization was reviewed annually and results were made available to both the public and the Legislature.

CRITICS SAY:

No concerns identified.

SUBJECT: Changing timeline of death notice to voter registrars and secretary of state

COMMITTEE: Elections — committee substitute recommended

VOTE: 9 ayes — Cain, J. González, Beckley, Bucy, Clardy, Fierro, Jetton, Schofield, Swanson

0 nays

WITNESSES: For — Robert Green, Travis County Republican Party Election Integrity Committee (*Registered, but did not testify*: Joey Bennett, Secure Democracy; Chris Davis and Cary Roberts, Texas Association of Elections Administrators; Heather Hawthorne, County and District Clerks Association of Texas; Marcia Strickler, WilcoWeTheePeople; Alan Vera, Harris County Republican Party Ballot Security Committee; and nine individuals)

Against — (*Registered, but did not testify*: Phil Bunker, Teamsters JC58; Richard Evans, Emgage Action; Harrison Hiner, Communications Workers of America; Carisa Lopez, Texas Freedom Network; James Slattery, Texas Civil Rights Project; David Weinberg, Brennan Center for Justice; Russell Hayter)

On — Christina Adkins, Texas Secretary of State (*Registered, but did not testify*: Bill Sargent)

BACKGROUND: Election Code sec. 16.001(a) requires a local registrar of deaths to prepare an abstract of each death certificate issued for a Texas resident who was 18 years of age or older. This abstract must be filed with the voter registrar in the decedent's county and the secretary of state no later than the 10th day of the month following the month the abstract was prepared.

Sec. 16.001(b) requires a clerk of each court having probate jurisdiction to prepare an abstract of each application for probate of a will, administration of a decedent's estate, or determination of heirship and certain affidavits filed in the month with a court served by the clerk. This abstract must be filed with the voter registrar and secretary of state no

later than the 10th day of the month following the month the abstract was prepared.

DIGEST:

CSHB 1264 would require abstracts prepared by local registrars of death and clerks of courts with probate jurisdiction to be filed with voter registrars and the secretary of state as soon as possible, and no later than seven days after the abstract was prepared.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1264 would help ensure the integrity of elections in Texas by shortening the time in which voter registrars and the secretary of state had to be notified of deaths. Currently, the reporting of a death to voter registrars and the secretary of state could take up to a month and 10 days after an abstract was prepared. This lengthy time frame could create an opportunity for an individual to vote illegally in the name of a deceased registered voter if the person died close to an election and had not yet been removed from the voter rolls. Shortening the time frame for the notification of a death to registrars and the secretary of state to seven days would reduce the opportunity to commit election fraud in this manner.

The bill would not increase the risk of an eligible voter being accidentally removed from the voter rolls because it pertains only to the time frame in which deaths are reported to voter registrars and the secretary of state. Although the bill could modestly increase the burden on local officials to report deaths to the voter registrar and secretary of state by shortening the timeline for abstracts to be filed, the current timeline risks enabling voter fraud and should be addressed by the state.

CRITICS SAY:

CSHB 1264 could result in qualified and registered voters being accidentally removed from the voter rolls by expediting the purging of voters believed to be deceased. In 2012, under a new mandate requiring that individuals matched with the Social Security Administration's Death Master File be purged from the rolls, around 80,000 voters received letters asking them to prove they were alive or have their registrations canceled. By rushing the process of verifying a voter's deceased status before removing them from the rolls, the bill could risk a similar outcome and

create opportunities for eligible voters to be removed incorrectly from the voter registration list.

The bill also could burden local officials by creating a much shorter time frame for death abstracts to be filed with voter registrars and the secretary of state.